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S E C R E T MANILA 4108

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TAGS: EGEN,ETRD, US RP

SUBJECT: US/RP ECONOMIC NEGOTIATIONS

REFS: (A) MANILA 4104 (B) MANILA 4103

1. SUMMARY AS REPORTED REF (A), AMBASSADOR AND EMBOFFS MET WITH PRES. AND PHILIPPINE APRIL 4-5 FOR WIDE RANGING TALKS ON LAUREL-LANGLEY AND RELATED TOPICS. TALKS INITIATED BY GOP DELIVERY OF COUNTER DRAFT AER (TEXT TRANSMITTED REF (B)). IT AGREED SUBSTANTIVE DISCUSSION DRAFT WOULD NOT BE HELD THIS SESSION BUT EMBOFFS PROVIDED GOP TEAM AN ARTICLE BY ARTICLE COMPARISON WITH US DRAFT WHICH BEING TRANSMITTED SEPTEL WITH EMBASSY COMMENT ON DRAFT. MAIN DISCUSSION CENTERED ON LAND ISSUES AND RANGE OF QUESTIONS TO BE COVERED IN VARIOUS PROPOSED GOP DECREES. HIGHLIGHTS OF SUBSTANTIVE EXPLORATIONS AS FOLLOWS.

2. LAND. AS REPORTED REF (A), AGREEMENT REACHED IN
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PRINCIPLE TO DEVELOP A FORMULA WHICH WOULD BASE

ANY CHANGE IN THE STATUS OF LAND TITLES
ON A MUTUAL AGREEMENT. NO ACTION BY GOP ON TITLES WOULD BE
TAKEN DURING NEGOTIATIONS. SPECIFICALLY PUT FORWARD FOR DISCUSSION BY
GOP MEMBERS (PATERNO AND TANCO) WERE SEVERAL OPTIONS FOR DEALING
WITH LAND AS OUTLINED BELOW.

A. THE RANGE OF POSSIBILITY:

- 1) GOP COULD DECLARE ALL TITLES ACQUIRED IN PARITY PERIOD
VALID, (I.E., UNDER ART. XVII, SECTION 88, OF 1973 CONSTITUTION,
EFFECTIVELY DECLARE THAT GOP DID NOT INTEND TO CHALLENGE TITLES
WHICH ALREADY VALID INDEFINITELY AGAINST PRIVATE PERSONS).
- 2) GOP COULD PROVIDE OWNERS A CERTIFICATE ESSENTIALLY MAKING TITLES
SUBJECT TO CONVEYANCE TO A QUALIFIED BUYER OR TO THE STATE, EITHER
BY A SPECIFIED DATE OR ON A CASE BY CASE DETERMINATION.
- 3) SALE AND LEASEBACK ARRANGEMENTS COULD BE CARRIED OUT BY
A SPECIFIED DATE.
- 4) EQUITY SALE OR SPINOFF TO REAL ESTATE ADJUNCT COULD BE
CARRIED OUT BY SPECIFIED DATE.
- 5) TITLES COULD REVERT TO THE STATE WITH
APPROPRIATE COMPENSATION.

B. CONCEPTS BY CLASSES OF LAND.

- 1) RESIDENTIAL -- IF THERE ARE NOT TOO MANY POTENTIAL PROBLEMS
WITH CHINESE AND/OR SPANISH CASES, A NATIONAL POLICY OF NOT
CHALLENGING TITLES ACQUIRED DURING PARITY COULD BE PROMULGATED.
- 2) COMMERCIAL/INDUSTRIAL -- A NATIONAL POLICY OF DUE COURSE
ADJUSTMENT/SALE COULD BE DECLARED, BUT THE DISPOSAL DATE NEED
NOT BE BY JULY 3, 1974.
- 3) PUBLIC AGRICULTURAL LANDS -- SUCH LANDS COULD BE DEEMED
TO HAVE BECOME PRIVATE TRANSFERABLE BY VIRTUE OF SALE, TO A
PRIVATE CITIZEN AND HANDLED SAME AS OTHER PRIVATE LANDS.

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- 4) PRIVATE AGRICULTURAL -- COULD BE TREATED SAME AS COMMERCIAL/
INDUSTRIAL.

COMMENT: THE DEGREE AND DEPTH OF GOP DIFFICULTY WITH
ANY CONCEPT OF VESTED RIGHTS EMERGED UNFILTERED IN
THESE DISCUSSIONS. TANCO, WHO LED THIS REVIEW IN
TALKS WITH ARNOLD, MAINLY DEVELOPED FOREGOING OUTLINES
AND IN ITS MEETING GOP TEAM REVIEWED OUTLINES IN DETAIL

WITH PRESIDENT. GOP TEAM POSTURE CLEARLY FAVORED DISPOSITION OF LAND BY JULY 3, BUT PRESIDENT, PATERNO AND, AS REVEALED IN OTHER CONVERSATIONS, MELCHOR PREPARED LOOK AT REASONABLE WAYS TO DEAL WITH ISSUES. IN THIS RESPECT, PATERNO TALKS WITH AM. CHAM. LEADERSHIP HAVE PROVIDED VERY USEFUL EXPOSURE OF GOVT. TO INTENSITY OF FEELINGS ON LAND ISSUE AND TO POTENTIALLY VERY DESTRUCTIVE PUBLICITY THAT COULD BE GENERATED BY BUSINESSMEN. END COMMENT

3. RETAIL TRADE. GOP INTENT, SUBJECT TO FINAL WORKING OUT OF LANGUAGE, IS TO ISSUE DECREE (A) EXEMPTING BULK SALES, SALES TO INDUSTRIAL AND USERS AND INDENT TRANSACTIONS FROM COVERAGE BY THE ACT, AND (B) PROVIDING NEW DEFINITIONS OF THESE TERMS. THIS DECREE WOULD BE DESIGNED, AS OTHERS OUTLINED BELOW, TO DEAL WITH PROBLEMS ALL FOREIGNERS.

COMMENT: GOP PROPOSAL DOES NOT HANDLE THE SPECIFIC TYPES OF RETAIL TRADE PROBLEMS AFFECTING SINGER OR ENCYCLOPEDIA BRITANNICA. END COMMENT

4. ANTI-DUMMY LAW AND LUSTEVECO CASE. GOP THINKING ABOUT TWO SEPARATE PROPOSALS TO (A) PROVIDE FOR REPRESENTATION IN BOARDS OF DIRECTORS PROPORTIONATE TO EQUITY, AND (B) PERMIT IMPORT OF MANAGEMENT AND TECHNICAL PERSONNEL FOR SPECIFIED PERIODS.

COMMENT: WHILE GOP SEEMS FIRM IN RESOLVE TO HANDLE BOARD REPRESENTATION ISSUE BY A DECREE EXTENSION OF THE PUBLIC UTILITY CONCEPT IN THE CONSTITUTION, THERE REMAIN VERY EVIDENT PROBLEMS WITH ANY OPEN-ENDED CONCEPT OF EXPATRIATE PERSONNEL, ESPECIALLY AT THE TECHNICAL LEVEL. AN APPROACH SUGGESTED BY THE GOP
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TEAM WOULD BE TO PERMIT SUCH PERSONNEL, IF REQUESTED BY THE BOARD OF DIRECTORS, BUT ONLY FOR LIMITED PERIODS AND WITH LIKELY REQUIREMENTS TO TRAIN PHILIPPINE REPLACEMENTS. END COMMENT

5. LEASES OF PUBLIC LAND. PATERNO AND TANCO PUT FORWARD IN THIS DISCUSSION TWO MAIN PROPOSITIONS: (A) LEASES OF PUBLIC AND RECLAIMED LAND BY AMERICANS WILL BE UNCONSTITUTIONAL AFTER JULY 3, 1974 AND (B) THE VEHICLE TO TAKE CARE OF THE PROBLEM IS A SERVICE CONTRACT UNDER PRESIDENTIAL DECREE 151, ISSUED IN MARCH 1973 (BELIEVE THIS AVAILABLE WASHINGTON, BUT ADDITIONAL COPIES BEING POUCHED). A CLARIFYING FOLLOW-UP BY GOP, BY LETTER OF INSTRUCTION OR SUPPLEMENTAL DECREE, WOULD VALIDATE THIS APPROACH.

COMMENT: DISCUSSION OF THIS ISSUE CENTERED ON
COMPARABILITY OF ACCESS CONDITIONS AND THE STATUS OF
IMPROVEMENTS. BOTH MEMBERS GOP TEAM FELT ALL SUCH
MATTERS OF LENGTH OF TERM, RENEWABILITY OF ARRANGE-
MENT AND TYPE/RATE OF PAYMENT WOULD BE READILY
MANAGEABLE. BOTH ALSO FELT THAT IMPROVEMENTS WOULD
BE TREATED AS SEPARATE FROM THE LAND, IN ACCORD WITH
TRADITIONAL PHILIPPINE LEGAL PRACTICE. END COMMENT
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